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In re Application of	:	
LAHAV et al.	:	DECISION ON
Application No.: 10/018,992	:	PAPERS UNDER 37 CFR 1.42
PCT No.: PCT/IL00/00364	:	
Int. Filing Date: 21 June 2000	:	
Priority Date: 22 June 1999	:	
Attorney Docket No.: DO1/2000	:	
For: STABLE BENZIMIDAZOLE	:	
FORMULATION	:	

This is a response to the "Renewed Submission under 37 CFR 1.42" filed 19 February 2003. No petition fee is required.

BACKGROUND

On 21 June 2000, applicants filed international application PCT/IL00/00364, which claimed a priority date of 22 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 December 2000. A proper Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire on 26 December 2001.

On 26 December 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and a copy of the international application.

On 27 February 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time period to respond.

On 27 June 2002, applicants filed a declaration and power of attorney executed by Valerie Azoulay as inventor and Erica Lahav on behalf of deceased inventor, Raffael Lahav. In a decision dated 30 August 2002, applicants' request was dismissed because the declaration was defective under 37 CFR 497(b).

On 18 October 2002, applicants filed "Renewed Submission under 37 CFR 1.42." In a decision dated 19 December 2002, applicants' request was dismissed because the declaration

was defective under 37 CFR 497.

On 19 February 2003, applicants the present renewed request under 37 CFR 1.42.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 19 February 2003 is executed by: Valerie Azoulay as inventor and Erica Lahav as the "executrix" of the deceased inventor. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 19 February 2003.

CONCLUSION

The papers filed under 37 CFR 1.42 are ACCEPTED.

The application has an international filing date of 21 June 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of 19 February 2003.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.



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